

MEMO ENDORSED

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VIA EMAIL

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Hon. Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Luv n' Care, Ltd. v. ETG Capital LLC et al
Case no.: 19 civ. 4328 (KPF)

Dear Judge Failla:

We are counsel to Defendants in the above referenced action. We write to respond to the Plaintiff's November 21, 2019 letter to the Court.

In short, the November 21st letter does not seem to be written in good faith. Plaintiff complains about discovery, but then admits to the Court that counsel participated on a good faith call to discuss discovery. During that call, Plaintiff again admits that Defendants agreed to revise their discovery production, some of which could only be revised once Plaintiff's intended requests were explained. Defendants also have produced more than two thousand pages of discovery last week, as Plaintiff was told was going to happen. A meet and confer is intended to avoid letters to the Court regarding discovery. Since the meet and confer was held and Plaintiff acknowledges to the Court that counsel has agreed to further responses, the letter to the Court was not necessary on these matters.

With regard to depositions, counsel is unavailable in December for depositions due to other legal commitments (and vacation the last week of December) that makes it necessary to conduct depositions in January. There is no intent to delay, just busy schedules. To that end, Defendants request that the

Court extend briefly extend the dates in the Civil Case Management Plan as follows (this would be the first request to extend any discovery dates):

1. All fact discovery to be completed by February 8, 2020.
2. All expert discovery, including reports, production of underlying documents, and depositions, to be completed by March 22, 2020.
3. Depositions of fact witnesses to be completed by January 31, 2020.

With this brief extension, Defendants believe that discovery can be completed in this matter.

We thank the Court in advance for its attention to this matter.

Respectfully submitted,



Leo L. Esses

Cc: Counsel of Record (via Email)

The Court is in receipt of Plaintiff's letter of November 21, 2019 (Dkt. # 33), and Defendants' response of December 2, 2019 (Dkt. #34). After reviewing the parties' submissions, the Court finds that an informal conference is not needed at this time. Defendants seem to be making good-faith efforts at this time to comply with Plaintiff's discovery requests, and therefore Court intervention is unwarranted. With that said, the Court does recognize the parties' difficulties in scheduling depositions. Therefore, the Court will accept Defendants' proposed extensions of discovery deadlines, as provided above. Moreover, the post-fact conference previously scheduled for January 16, 2020, is hereby ADJOURNED to February 11, 2020, at 3:00 p.m.

Dated: December 2, 2019
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE